

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR RULE AMENDMENTS**

AGENDA # III.A.1.

AGENDA ITEM SUMMARY - The department requests that the Board adopt amendments to the administrative enforcement procedure rules promulgated under the Public Water Supply Law.

LIST OF AFFECTED RULES - ARM 17.38.602 and 17.38.603

AFFECTED PARTIES SUMMARY – Owners of public water systems and public sewer systems. Examples of these systems include cities, towns, water and sewer districts, subdivisions, mobile home parks, businesses and schools.

SCOPE OF PROPOSED PROCEEDING - The Department requests that the Board adopt amendments to the definitions in ARM 17.38.602 and to the administrative enforcement procedures in ARM 17.36.603.

BACKGROUND – Several definitions in the rules are deleted or amended to update terminology and eliminate duplication. The procedures for issuance of a notice letter are clarified to conform with Section 75-6-110(2), MCA, which requires that a notice letter be sent unless the violation represents an imminent threat to human health or the environment. Cumbersome procedures for issuance of administrative orders are deleted. The amendments clarify that the department may issue an order, without sending a violation letter, if the violation represents an imminent threat or is categorized as a Class I violation. The amendments also state that if a violator fails to comply with the requirements of the violation letter, the department may issue an order. Compliance actions that may be included in an order are amended to include public sewage systems and to conform to existing rules and statutory language.

HEARING INFORMATION – The public hearing was held on July 31, 2003 and the public comment period closed on July 31, 2003. No public comments were received.

BOARD OPTIONS - The Board may:

1. Amend the notice;
2. Adopt and amend the rules as originally proposed; or
3. Decline to adopt the amendments.

DEQ RECOMMENDATION - The Department recommends the Board adopt the amendments as proposed.

ENCLOSURES -

1. Notice of public hearing on proposed amendment of ARM 17.38.602 and 17.38.603 pertaining to public water and sewage system requirements.
2. Draft Notice of Adoption and Amendment for MAR Notice No. 17-191.